

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
May 18, 2023
8:30 a.m./1:30 p.m.

1. DAVID STEVEN MERCADO V. APRIL LOCKHART

PFL20180104

Petitioner filed an Order to Show Cause and Affidavit for Contempt (OSC) on December 9, 2022. Petitioner asserts Respondent has violated the Domestic Violence Restraining Order on five occasions. Previously the court indicated that Respondent was personally served on February 1, 2023. The court notes this is incorrect. Respondent's counsel was personally served which is not code compliant.

The parties were ordered to appear on March 6, 2023 for arraignment on the OSC; however, only Petitioner's counsel appeared. The court found that the arraignment could not proceed in the absence of Respondent and the matter was continued to the present date for hearing. A bench warrant was issued for Respondent and the court ordered Respondent to be personally served with the Findings and Orders After Hearing from the March 6th hearing.

In light of the fact that the initial OSC was not properly served, the court vacates the bench warrant for Respondent and the matter is dropped from calendar for lack of proper service.

TENTATIVE RULING #1: IN LIGHT OF THE FACT THAT THE INITIAL OSC WAS NOT PROPERLY SERVED, THE COURT VACATES THE BENCH WARRANT FOR RESPONDENT AND THE MATTER IS DROPPED FROM CALENDAR FOR LACK OF PROPER SERVICE.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6725 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999). NOTICE TO ALL PARTIES OF A REQUEST FOR ORAL ARGUMENT AND THE GROUNDS UPON WHICH ARGUMENT IS BEING REQUESTED MUST BE MADE BY TELEPHONE OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

May 18, 2023

8:30 a.m./1:30 p.m.

2. GABRIELA PERIRA-NIERI V. EUGENE NIERI

PFL20200120

Petitioner filed an Order to Show Cause and Affidavit for Contempt (OSC) on February 16, 2023. Petitioner asserts Respondent has violated support and property division orders. Respondent was personally served on March 17, 2023.

Petitioner filed an additional Declaration regarding the OSC on May 5th, however there is no Proof of Service and as such the court has not read or considered it.

The parties are ordered to appear for arraignment.

TENTATIVE RULING #2: THE PARTIES ARE ORDERED TO APPEAR FOR ARRAIGNMENT.

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
May 18, 2023
8:30 a.m./1:30 p.m.

3. JEFF ABEL V. JULIE ABEL

PFL20190962

Petitioner seeks an order bifurcating the matter to allow for the entry of a status only judgment. He filed his Request for Order (RFO) and other moving papers on March 3, 2023. All documents were mail served on March 10th. Respondent's Responsive Declaration to Request for Order was filed and served on May 5th. The document entitled Petitioner's Reply to Responsive Declaration and Objections to Proposed Non-Compete Agreement was filed and served on May 10th.

Petitioner requests bifurcation of the proceedings and entry of a status only judgment on the basis that the dissolution proceedings have been pending for 3.5 years and no significant progress has been made on the allocation of property and resolution of the proceedings. He asks that the court reserve jurisdiction on the issues of property division, support and attorney's fees. As required, Petitioner completed his FL-315 indicating the existence of eight Individual Retirement Accounts and Investment Accounts which he argues are not required to be joined in order to allow for bifurcation. He agrees that any status only judgment be subject to, and contingent upon, the conditions set forth in Family Code section 2337(c).

Respondent does not agree with the bifurcation. She is concerned if a status only judgment is entered, Petitioner will not uphold his fiduciary duties in relation to the business of the parties as well as their community property. Respondent states that she may be agreeable to bifurcation if Petitioner agreed to sign a non-compete agreement.

Petitioner argues there are four main deficiencies in Respondent's opposition. (1) Respondent failed to file an FL-315 in conjunction with her responsive declaration; (2) Respondent does not provide any facts to support her objection or the need for the imposition of a non-compete agreement; (3) A non-compete agreement which simply restates the fiduciary duties already imposed on Petitioner by law is meaningless; and (4) A non-compete agreement would only add to the length and complexity of the matter.

"The court may separately try one or more issues before the trial of the other issues if resolution of the bifurcated issue is likely to simplify the determination of the other issues." Cal. Rules of Ct. Rule 5.390(c). In dissolution proceedings, the court may bifurcate the issue of the dissolution of the marriage and enter a status only judgment. *Id.* at (c)(7); Fam. Code § 2337. In fact, it is the public policy of the state to favor bifurcation where the dissolution of marriage would otherwise be postponed due to issues of property, support, custody or attorney's fees. In re Marriage of Fink, 54 Cal. App. 3d 357 (1976). In furtherance of that policy, the party moving for bifurcation need only show slight evidence in support of its motion. Girons v. Sup. Ct., 202 Cal. App. 3d 786 (1988). In contrast, the party opposing the motion "must present compelling reasons for denial." *Id.* at 790. Of course, despite the general policy in favor of bifurcation, the moving party must ensure that "[a]ll pension plans that have not been divided by court order

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

May 18, 2023

8:30 a.m./1:30 p.m.

that require joinder ..." have been joined. Cal. Rule Ct. 5.390(d)(1). A party seeking bifurcation is to submit a completed FL-315 evidencing such. Cal. Rule Ct. 5.390(a).

The court has reviewed the filings of the parties as outlined above and finds that bifurcation is warranted in this matter. In fact, this appears to be exactly the type of case for which the mechanism of bifurcation was created. The parties share significant assets which will take extensive time and effort to sort through. The matter has been pending for 3.5 years and Petitioner maintains that there is no possibility of reconciliation. The parties each individually have a number of investment and retirement accounts. As these are individual accounts they do not need to be joined to move forward with bifurcation. The parties are ordered to appear to select hearing dates for a status only judgment.

TENTATIVE RULING #3: THE PARTIES ARE ORDERED TO APPEAR TO SELECT HEARING DATES FOR A STATUS ONLY JUDGMENT.

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
May 18, 2023
8:30 a.m./1:30 p.m.

4. JULIE TRIPSHA V. GEORGE III TRIPSHA

22FL0886

This matter comes before the court on two separate Requests for Order on the issues of child support, spousal support, and attorney's fees.

Respondent's Request for Order

Respondent filed a Request for Order (RFO) on October 20, 2022 requesting guideline temporary spousal support and Family Code section 2030 attorney's fees in the amount of \$20,000. Respondent concurrently filed an Income and Expense Declaration, as well as a Declaration of counsel and a Declaration in support of his request. Petitioner was served on October 28, 2022.

Petitioner filed an Income and Expense Declaration on December 27, 2022. Respondent was served on December 22, 2022.

On January 10, 2023, by agreement of the parties, the court continued the hearing on the request for spousal support and attorney's fees and set a review hearing for custody and parenting plan step-up for March 9, 2023 which was continued to April 27th. Parties were ordered to file and serve Income and Expense Declarations as well as any supplemental declarations at least 10 days prior to the hearing date.

Petitioner filed her Income and Expense Declaration on March 7th which was served previously on February 23rd. Respondent failed to file an updated Income and Expense Declaration prior to the April 27th hearing date. The court once again continued the matter to the present date and ordered Respondent to file an Income and Expense Declaration at least 10 days prior to the hearing date.

To date, the court has yet to receive an up-to-date Income and Expense Declaration from Respondent. Given that Respondent was the moving party, the court drops the RFO from calendar.

Petitioner's Request for Order

Petitioner filed her RFO on March 2, 2023 seeking child support, attorney's fees, monetary sanctions and discovery orders. It, along with all other required documents were electronically served on March 13th. On May 8th she filed and served a Memorandum of Points and Authorities in Support of Imputing Income to Respondent. Respondent has not opposed the motion or the request to impute him with minimum wage.

Child Support

Petitioner is requesting guideline child support for the parties' two minor children. She proposes a 1% timeshare and has provided the court with a DissoMaster Report resulting in a

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

May 18, 2023

8:30 a.m./1:30 p.m.

payment of \$614. In calculating support, Petitioner asks that Respondent be imputed with wages commensurate with a full-time job at \$20 per hour or, in the alternative, full-time minimum wage pursuant to Family Code section 4058(b).

The court finds it proper to impute Respondent with minimum wage. He has not provided any reason to refute Petitioner's contentions that he has the opportunity and ability to work. Further, he was gainfully employed earning above minimum wage. As such, utilizing the figures as outlined in the attached DissoMaster, the court finds that child support per the guideline formula is \$644 per month. The court adopts the attached DissoMaster report and orders Respondent to pay Petitioner \$644 per month as and for guideline child support, payable on the 1st of the month until further order of the court or legal termination. The court orders the guideline child support order effective March 1, 2023.

The court finds the above order results in arrears in the amount of \$1,932 through and including May 1, 2023. The court orders Respondent pay Petitioner \$161 on the 15th of each month until paid in full (approximately 12 months). If a payment is late or missed the remaining balance is due in full with legal interest within five (5) days.

The court further finds Petitioner routinely receives bonuses and therefore, has included an annual bonus with the DissoMaster. Respondent is to pay Petitioner, or Petitioner is to credit Respondent, with a true up of any bonuses earned no later than the 15th of the month following the month when the bonus is received.

Motion to Compel

In addition to the request for child support, Petitioner is seeking an order compelling Respondent to respond to Requests for Production of Documents, Form Interrogatories, Special Interrogatories and Demand for Disclosures pursuant to Family Code section 2107. Discovery requests were served on December 13, 2022 thereby making their responses due on or before January 18, 2023. The Demand for Preliminary Declaration of Disclosure was served on December 26, 2022. As such, Respondent's preliminary disclosures were due 10 day later.

"The party to whom interrogatories have been propounded shall respond in writing under oath separately to each interrogatory by any of the following: (1) An answer containing the information sought to be discovered. (2) An exercise of the party's option to produce writings. (3) An objection to the particular interrogatory." Cal. Civ. Pro. § 2030.210(a). Likewise, "A party to whom a demand for inspection, copying, testing, or sampling has been directed shall respond separately to each item or category of item by any of the following:" (1) a statement that the party will comply, (2) a statement that the party lacks the ability to comply, or (3) an objection to the demand or request made. Cal. Civ. Pro. §2031.210. Generally speaking, discovery responses are due within 30 days of the date of service. Cal. Civ. Pro. §

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
May 18, 2023
8:30 a.m./1:30 p.m.

2030.260 & 2031.260. If a party fails to provide timely responses, that party waives any right to object and waives the right to produce writings in response. Cal. Civ. Pro. §2030.290 (a) & 2031.300(a). All responses to discovery, with the exception of objections only, are required to be made under oath signed by the party responding. Cal. Civ. Pro. § 2030.250 & 2031.250.

In addition to the discovery mechanisms under the Civil Discovery Act, Family Code section 2104 imposes on each party the obligation of making a preliminary disclosure of assets within the timeframe specified. For the party responding to a Petition for Dissolution, the disclosure is due either concurrently with the response or within 60 days of filing the same.

It is well settled that Respondent is obligated to comply with discovery and produce his initial disclosures. Respondent has not provided any good cause for his failure to do so. As such, Respondent is ordered to provide full and complete verified responses to Requests for Production of Documents, Special Interrogatories, and Form Interrogatories, without objections, as well as his preliminary disclosures no later than May 29, 2023. Failure to comply may result in further discovery sanctions upon noticed motion by Petitioner.

Sanctions

Petitioner makes a request for attorney's fees and sanctions pursuant to Family Code sections 271 and 2107. She is requesting a total of \$15,967.64 in fees. She states this amount is related to the drafting of the present RFO as well as drafting discovery and other documents and time spent during client consultation, meeting and conferring with counsel and a full day of trial on the request for restraining order. She notes that fees and costs should also be awarded to her pursuant to Family Code section 6344 as the court granted her request for a domestic violence restraining order. Finally, she asks that sanctions under Section 271 be in an amount no less than \$1,000.

Where a party fails to provide initial disclosures pursuant to Section 2104, the complying party may, among other things, file a motion to compel and seek sanctions against the noncomplying party. Fam. Code § 2107(b)(1). "...[T]he court *shall*...impose monetary sanctions against the noncomplying party. Sanctions shall be in an amount sufficient to deter repetition of the conduct or comparable conduct, and *shall* include reasonable attorney's fees, costs incurred, or both, unless the court finds that the noncomplying party acted with substantial justification or that other circumstances make the imposition of the sanction unjust." Fam. Code § 2107(c).

Sanctions are also warranted under the Civil Discovery Act. "The court may impose a monetary sanction ordering that one engaging in the misuse of the discovery process...pay the reasonable expenses, including attorney's fees, incurred by anyone as a result of that conduct...If a monetary sanction is authorized by any provision of this title, the court *shall*

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

May 18, 2023

8:30 a.m./1:30 p.m.

impose that sanction unless it finds that one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.” Cal. Civ. Pro. 2023.030(a)(emphasis added) & 2023.020. Misuse of the discovery process includes, but is not limited to, failing to respond or submit to an authorized method of discovery. Cal. Civ. Pro. § 2023.010. Written interrogatories and requests for production of documents are both authorized forms of discovery. Cal. Civ. Pro. §§ 2030.210, 2031.210. “[I]n addition to any other sanctions imposed ...a court *shall* impose a two hundred-and-fifty-dollar (\$250) sanction, payable to the requesting party...” if the court finds that the noncompliant party did not respond in good faith to a request for production of documents. Cal. Civ. Pro. § 2023.050(a).

Family Code section 6344(b) allows “[i]n any action in which the petitioner is the prevailing party and cannot afford to pay for the attorney’s fees and costs, the court shall, if appropriate based on the parties’ respective abilities to pay, order that the respondent pay petitioner’s attorney’s fees and costs for commencing and maintaining the proceeding. Whether the respondent shall be ordered to pay attorney’s fees and costs for the prevailing petitioner, and what amount shall be paid, shall be determined based upon (1) the respective incomes and needs of the parties, and (2) any factors affecting the parties’ respective abilities to pay.”

Finally, Family Code section 271 states in pertinent part, “...the court may base an award of attorney’s fees and costs on the extent to which the conduct of each party or attorney furthers or frustrates the policy of the law to promote settlement of litigation and, where possible, to reduce the cost of litigation by encouraging cooperation of the parties...” Fam. Code § 271(a).

Petitioner has established grounds for sanctions under all of the foregoing legal mechanisms. Respondent’s failure to submit to authorized and properly served discovery; his failure to make his preliminary disclosures; and the DVRO obtained against him are all grounds to award Petitioner attorney’s fees as well as additional sanctions. Respondent has not provided any good cause for his woeful disregard for his legal obligations. Moreover, he has not provided the court with an explanation of any circumstances that would make the imposition of sanctions unjust or his ability to pay. In fact, he has been ordered more than once to submit an Income and Expense Declaration and has declined to do so. Accordingly, Respondent is to pay petitioner \$16,217.64 (\$15,967.64 + \$250) as and for attorney’s fees and sanctions. Payments are to be made in the amount of \$337.87 on the 15th of each month until paid in full (approximately 48 months). If any payment is missed or late the entire amount is to become immediately due and payable with legal interest.

TENTATIVE RULING #4: RESPONDENT’S REQUEST FOR ORDER IS DROPPED FROM CALENDAR. THE COURT ADOPTS THE ATTACHED DISSOMASTER REPORT AND ORDERS RESPONDENT TO

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

May 18, 2023

8:30 a.m./1:30 p.m.

PAY PETITIONER \$644 PER MONTH AS AND FOR GUIDELINE CHILD SUPPORT, PAYABLE ON THE 1ST OF THE MONTH UNTIL FURTHER ORDER OF THE COURT OR LEGAL TERMINATION. THE COURT ORDERS THE TEMPORARY CHILD SUPPORT ORDER EFFECTIVE MARCH 1, 2023. THE COURT FINDS THE ABOVE ORDER RESULTS IN ARREARS IN THE AMOUNT OF \$1,932 THROUGH AND INCLUDING MAY 1, 2023. THE COURT ORDERS RESPONDENT PAY PETITIONER \$161 ON THE 15TH OF EACH MONTH UNTIL PAID IN FULL (APPROXIMATELY 12 MONTHS). IF A PAYMENT IS LATE OR MISSED THE REMAINING BALANCE IS DUE IN FULL WITH LEGAL INTEREST WITHIN FIVE (5) DAYS. THE COURT FURTHER FINDS PETITIONER ROUTINELY RECEIVES BONUSES AND THEREFORE, HAS INCLUDED AN ANNUAL BONUS WITH THE DISSOMASTER. RESPONDENT IS TO PAY PETITIONER, OR PETITIONER IS TO CREDIT RESPONDENT, WITH A TRUE UP OF ANY BONUSES EARNED NO LATER THAN THE 15TH OF THE MONTH FOLLOWING THE MONTH WHEN THE BONUS IS RECEIVED.

RESPONDENT IS ORDERED TO PROVIDE FULL AND COMPLETE VERIFIED RESPONSES TO REQUESTS FOR PRODUCTION OF DOCUMENTS, SPECIAL INTERROGATORIES, AND FORM INTERROGATORIES, WITHOUT OBJECTIONS, AS WELL AS HIS PRELIMINARY DISCLOSURES NO LATER THAN MAY 29, 2023. FAILURE TO COMPLY MAY RESULT IN FURTHER DISCOVERY SANCTIONS UPON NOTICED MOTION BY PETITIONER. RESPONDENT IS TO PAY PETITIONER \$16,217.64 (\$15,967.64 + \$250) AS AND FOR ATTORNEY'S FEES AND SANCTIONS. PAYMENTS ARE TO BE MADE IN THE AMOUNT OF \$337.87 ON THE 15th OF EACH MONTH UNTIL PAID IN FULL (APPROXIMATELY 48 MONTHS). IF ANY PAYMENT IS MISSED OR LATE THE ENTIRE AMOUNT IS TO BECOME IMMEDIATELY DUE AND PAYABLE WITH LEGAL INTEREST.

PETITIONER IS TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6725 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999). NOTICE TO ALL PARTIES OF A REQUEST FOR ORAL ARGUMENT AND THE GROUNDS UPON WHICH ARGUMENT IS BEING REQUESTED MUST BE MADE BY TELEPHONE OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07.

ATTORNEY (NAME AND ADDRESS): California ATTORNEY FOR: Father	TELEPHONE NO: Superior Court Of The State of California, County of COURT NAME: STREET ADDRESS: MAILING ADDRESS: BRANCH NAME:
DISSOMASTER REPORT 2023, Monthly	CASE NUMBER:

Input Data	Father	Mother	Guideline (2023)	Cash Flow Analysis	Father	Mother
			Nets (adjusted)	Guideline		
Number of children	0	2				
% time with Second Parent	0.3%	0%	Father	2,274	Payment (cost)/benefit	(644) 644
Filing status	Single	HH/MLA	Mother	11,107	Net spendable income	1,629 11,751
# Federal exemptions	1*	3*	Total	13,381	% combined spendable	12.2% 87.8%
Wages + salary	2,687	14,962	Support		Total taxes	413 3,817
401(k) employee contrib	0	385	CS Payor	Father	Comb. net spendable	13,380
Self-employment income	0	0	Presumed	(644)	Proposed	
Other taxable income	0	140	Basic CS	(644)	Payment (cost)/benefit	(644) 644
Short-term cap. gains	0	0	Add-ons	0	Net spendable income	1,629 11,751
Long-term cap. gains	0	0	Presumed Per Kid		NSI change from gdl	0 0
Other gains (and losses)	0	0	Child 1	(239)	% combined spendable	12.2% 87.8%
Ordinary dividends	0	0	Child 2	(405)	% of saving over gdl	0% 0%
Tax. interest received	0	0	Spousal support	blocked	Total taxes	413 3,817
Social Security received	0	0	Total	(644)	Comb. net spendable	13,380
Unemployment compensation	0	0	Proposed, tactic 9		Percent change	0.0%
Operating losses	0	0	CS Payor	Father	Default Case Settings	
Ca. operating loss adj.	0	0	Presumed	(644)		
Roy, partnerships, S corp, trusts	0	0	Basic CS	(644)		
Rental income	0	0	Add-ons	0		
Misc ordinary tax. inc.	0	140	Presumed Per Kid			
Other nontaxable income	0	0	Child 1	(239)		
New-spouse income	0	0	Child 2	(405)		
SS paid other marriage	0	0	Spousal support	blocked		
CS paid other relationship	0	0	Total	(644)		
Adj. to income (ATI)	0	0	Savings	0		
Ptr Support Pd. other P'ships	0	0	No releases			
Health insurance	0	178				
Qual. Bus. Inc. Ded.	0	0				
Itemized deductions	0	1,940				
Other medical expenses	0	0				
Property tax expenses	0	729				
Ded. interest expense	0	1,211				
Charitable contribution	0	0				
Miscellaneous itemized	0	0				
State sales tax paid	0	0				
Required union dues	0	0				
Cr. for Pd. Sick and Fam. L.	0	0				
Mandatory retirement	0	0				
Hardship deduction	0*	0*				
Other gdl. adjustments	0	0				
AMT info (IRS Form 6251)	0	0				
Child support add-ons	0	0				
TANF, SSI and CS received	0	0				

ATTORNEY (NAME AND ADDRESS): California ATTORNEY FOR: Father	TELEPHONE NO: Superior Court Of The State of California, County of COURT NAME: STREET ADDRESS: MAILING ADDRESS: BRANCH NAME:
Mother Annual Bonus Wages Report 2023 Yearly	CASE NUMBER:

"R" denotes that Mother is a recipient for the corresponding support
 "CS%" is the percentage of Bonus paid as additional Child Support
 "SS%" is the percentage of Bonus paid as additional Spousal Support

Mother's Gross Bonus	Basic CS%	Basic CS	Alameda SS%	Alameda SS	Total Basic CS	Total SS	Total Support CS+SS
1,000	1.10	11	0.00	0	7,722 R	0	7,722 R
1,100	1.10	12	0.00	0	7,721 R	0	7,721 R
1,200	1.10	13	0.00	0	7,720 R	0	7,720 R
1,300	1.10	14	0.00	0	7,719 R	0	7,719 R
1,400	1.10	15	0.00	0	7,718 R	0	7,718 R
1,500	1.10	16	0.00	0	7,716 R	0	7,716 R
1,600	1.09	18	0.00	0	7,715 R	0	7,715 R
1,700	1.09	19	0.00	0	7,714 R	0	7,714 R
1,800	1.09	20	0.00	0	7,713 R	0	7,713 R
1,900	1.09	21	0.00	0	7,712 R	0	7,712 R
2,000	1.09	22	0.00	0	7,711 R	0	7,711 R
2,100	1.09	23	0.00	0	7,710 R	0	7,710 R
2,200	1.09	24	0.00	0	7,709 R	0	7,709 R
2,300	1.09	25	0.00	0	7,708 R	0	7,708 R
2,400	1.09	26	0.00	0	7,707 R	0	7,707 R
2,500	1.09	27	0.00	0	7,706 R	0	7,706 R
2,600	1.09	28	0.00	0	7,705 R	0	7,705 R
2,700	1.09	29	0.00	0	7,703 R	0	7,703 R
2,800	1.09	31	0.00	0	7,702 R	0	7,702 R
2,900	1.09	32	0.00	0	7,701 R	0	7,701 R
3,000	1.09	33	0.00	0	7,700 R	0	7,700 R
3,100	1.09	34	0.00	0	7,699 R	0	7,699 R
3,200	1.09	35	0.00	0	7,698 R	0	7,698 R
3,300	1.09	36	0.00	0	7,697 R	0	7,697 R
3,400	1.09	37	0.00	0	7,696 R	0	7,696 R
3,500	1.09	38	0.00	0	7,695 R	0	7,695 R
3,600	1.09	39	0.00	0	7,694 R	0	7,694 R
3,700	1.09	40	0.00	0	7,693 R	0	7,693 R
3,800	1.09	41	0.00	0	7,692 R	0	7,692 R
3,900	1.08	42	0.00	0	7,691 R	0	7,691 R
4,000	1.08	43	0.00	0	7,690 R	0	7,690 R
4,100	1.08	44	0.00	0	7,688 R	0	7,688 R
4,200	1.08	46	0.00	0	7,687 R	0	7,687 R
4,300	1.08	47	0.00	0	7,686 R	0	7,686 R
4,400	1.08	48	0.00	0	7,685 R	0	7,685 R
4,500	1.08	49	0.00	0	7,684 R	0	7,684 R

PETITIONER:	CASE NUMBER:
RESPONDENT:	

Mother Annual Bonus Wages Report, cont'd

Mother's Gross Bonus	Basic CS%	Basic CS	Alameda SS%	Alameda SS	Total Basic CS	Total SS	Total Support CS+SS
4,600	1.08	50	0.00	0	7,683 R	0	7,683 R
4,700	1.08	51	0.00	0	7,682 R	0	7,682 R
4,800	1.08	52	0.00	0	7,681 R	0	7,681 R
4,900	1.08	53	0.00	0	7,680 R	0	7,680 R
5,000	1.08	54	0.00	0	7,679 R	0	7,679 R
5,100	1.08	55	0.00	0	7,678 R	0	7,678 R
5,200	1.08	56	0.00	0	7,677 R	0	7,677 R
5,300	1.08	57	0.00	0	7,676 R	0	7,676 R
5,400	1.08	58	0.00	0	7,675 R	0	7,675 R
5,500	1.08	59	0.00	0	7,674 R	0	7,674 R
5,600	1.08	60	0.00	0	7,673 R	0	7,673 R
5,700	1.08	61	0.00	0	7,671 R	0	7,671 R
5,800	1.08	62	0.00	0	7,670 R	0	7,670 R
5,900	1.08	64	0.00	0	7,669 R	0	7,669 R
6,000	1.08	65	0.00	0	7,668 R	0	7,668 R
6,100	1.08	66	0.00	0	7,667 R	0	7,667 R
6,200	1.08	67	0.00	0	7,666 R	0	7,666 R
6,300	1.07	68	0.00	0	7,665 R	0	7,665 R
6,400	1.07	69	0.00	0	7,664 R	0	7,664 R
6,500	1.07	70	0.00	0	7,663 R	0	7,663 R
6,600	1.07	71	0.00	0	7,662 R	0	7,662 R
6,700	1.07	72	0.00	0	7,661 R	0	7,661 R
6,800	1.07	73	0.00	0	7,660 R	0	7,660 R
6,900	1.07	74	0.00	0	7,659 R	0	7,659 R
7,000	1.07	75	0.00	0	7,658 R	0	7,658 R
7,100	1.07	76	0.00	0	7,657 R	0	7,657 R
7,200	1.07	77	0.00	0	7,656 R	0	7,656 R
7,300	1.07	78	0.00	0	7,655 R	0	7,655 R
7,400	1.07	79	0.00	0	7,654 R	0	7,654 R
7,500	1.07	80	0.00	0	7,653 R	0	7,653 R
7,600	1.07	81	0.00	0	7,652 R	0	7,652 R
7,700	1.07	82	0.00	0	7,651 R	0	7,651 R
7,800	1.07	83	0.00	0	7,650 R	0	7,650 R
7,900	1.07	84	0.00	0	7,648 R	0	7,648 R
8,000	1.07	85	0.00	0	7,647 R	0	7,647 R

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

May 18, 2023

8:30 a.m./1:30 p.m.

6. MARY MCQUINN V. MICHAEL MCQUINN

PFL20170332

Respondent filed a Request for Order (RFO) on November 16, 2022, requesting modification of the child custody, parenting time, and a holiday schedule. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on December 14, 2022 and a review hearing on February 2, 2023. Petitioner and Minors' Counsel were served on November 16, 2022. Respondent requested the court order a holiday and summer break schedule as set forth in his declaration, as well as order scheduled phone contact between Respondent and the minors. Respondent also requested the court order the parties to communicate via the Talkingparents.com application and that neither party make disparaging remarks about the other parent, other parent's relationships, other parent's home, or other parent's political opinions in front of the minors.

Parties attended CCRC on December 14, 2022, however, they were unable to reach any agreements. A report was filed on January 12, 2023. Copies were mailed to the parties on January 17, 2023.

Petitioner filed and served a Responsive Declaration on January 11, 2023. Petitioner objected to Respondent's requested modifications, except for using Talkingparents.com for all communication about the minors and that neither party make disparaging remarks about the other in the minors' presence.

On January 30, 2023, parties filed a Stipulation and Order to continue the February 2, 2023 hearing to March 9, 2023.

Minors' Counsel filed a Statement of Issues and Contentions on February 21, 2023. Parties were served on February 20, 2023. Minor's Counsel agreed with several of the CCRC recommendations and made additional recommendations of her own.

The parties attended the hearing on the RFO on March 9th at which time they presented the court with a stipulation. The parties agreed to adopt the CCRC recommendations with several modifications and additions as stated therein. Decisions on the issues of a holiday schedule, parenting class, and summer break were deferred until the next hearing. The court adopted the stipulation and set a review hearing for the present date.

All parties have provided the court with updated declarations. Minor's Counsel's Statement of Issues and Contentions and Request for Orders was filed and served on May 5th. Petitioner's Supplemental Declaration of Mary McQuinn was filed and served on May 8th. Thereafter, Respondent filed and served Respondent's Reply to Minor's Counsel's Statement of Issues and Request for Orders on May 11th. A follow up Declaration was filed on behalf of Respondent on May 15th indicating the documents were mistakenly not served on the 11th but were electronically served on May 15th.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

May 18, 2023

8:30 a.m./1:30 p.m.

Minor's Counsel agrees with CCRC's recommendation that Respondent have visitation the third weekend of each month, in California, from Friday after school at 3:00 pm to Sunday at 6:00 pm as well as CCRC's suggested holiday schedule. Regarding the summer visit, Minor's Counsel recommends Respondent have a two-week visit to take place at some point between July 7, 2023 and August 9, 2023. She also feels that phone calls should continue per the stipulation on Tuesdays and Thursdays at 6:30 pm and Saturdays at 4:30 pm. The phone schedule should be vice versa for Petitioner to have with the children when they are visiting Respondent. Minor's Counsel is of the opinion that the parties should choose a new therapist for the children as their current one has been non-responsive and has cancelled multiple appointments. She also states that Petitioner should participate in a parenting course or engage the services of a behavioral therapist to ensure healthy boundaries and appropriate discipline and the parties should jointly participate in co-parenting counseling to take place in California.

Petitioner mostly agrees with the recommendations of Minor's Counsel, however she requests the court make additional orders. In the event Respondent chooses not to exercise his parenting time, Petitioner would like to be notified at least 15 days in advance. Further, she would like exchanges to be held at 5:00 pm at the El Dorado County Sheriff's Office instead of the previously stipulated 3:00 pm on Fridays and 6:00 pm on Sundays. Regarding summer break, Petitioner recommends Respondent have parenting time from Saturday July 8, 2023 at 5:00 pm to Saturday July 22, 2023 at 5:00 pm. Petitioner agrees to finding a new therapist for the children. She suggests that she propose up to 3 therapists who take MediCal within 30 days of the hearing date and Respondent choose one of the names within 7 days thereafter. If the parties cannot agree then Minor's Counsel is to choose a therapist from the list. She suggests the same procedure for choosing a coparenting counselor. Finally, she asks that the court set a review hearing approximately 120-150 days from the date of the hearing.

Respondent also agrees with the majority of Minor's Counsel's recommendations. He states he agrees with Minor's Counsel's recommendation to have one weekend visit per month, but he indicates that the visit is to take place from Friday after school through Monday return to school. This is in contrast to Minor's Counsel's recommendation which states visits would be from Friday's after school through Sundays at 6:00 pm. Respondent would like summer visitation to be from July 7th through August 6th and all future summers to be spent with him. Additionally, he agrees with the scheduled phone calls but asks that Petitioner be ordered not to interrupt or monitor the calls. He agrees to a new therapist for the children and Petitioner taking a parenting course. He also agrees to the holiday schedule as recommended by the CCRC counselor and Minor's Counsel. He does not feel coparenting counseling would be beneficial at this time and specifically states that he does not want coparenting counseling to take place during his monthly visits to California. On the issue of transportation, Respondent agrees to exchanges at the Placerville Police Department for California visits. However, regarding the

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

May 18, 2023

8:30 a.m./1:30 p.m.

Georgia visits he asks that Petitioner transport the children to and from the airport. Finally, he asks that the prohibition on out of state travel be lifted as he lives 10 minutes from the border of Tennessee and Alabama.

The court has reviewed the aforementioned filings and orders as follows:

- (1) Parenting Time: Respondent shall have visitation the third weekend of each month in California from Friday after school, or 3:00 pm if school is not in session, to Sunday at 6:00 pm. Exchanges are to take place at the El Dorado County Sheriff's Department. On Fridays of a visitation weekend, Petitioner is to pick the children up from school and drive them directly to the Sheriff's Department for the exchange. If Respondent is unable to make any of his visits, he is to give Petitioner notice of the cancelled visit no less than one week prior to the date the visit was to commence.
- (2) Summer Visit: Respondent shall have parenting time in Georgia from Saturday July 8, 2023 through Sunday July 23, 2023. Petitioner shall transport the children to and from the Sacramento airport for travel to their visit with Respondent. Respondent's request to have visitation for the entirety of all future summers is denied.
- (3) Holiday Schedule: The holiday schedule is adopted as the order of the court as stated in the January 12, 2023 CCRC report.
- (4) Phone Calls: Respondent is to have phone calls with the children on Tuesdays and Thursdays at 6:30 pm and Saturdays at 4:30 pm. Petitioner is to have the same schedule when the children are visiting Respondent during their summer visitation. Neither party is to interrupt or monitor the children's calls with the other parent.
- (5) Communication: The parties are to continue their use of TalkingParents. Neither parent may speak negatively of the other parent or engage in discussions with the children involving the other parent or the court proceedings.
- (6) Counseling: The parties are to choose a new therapist for the children. Petitioner is to propose the names of 2-3 therapists who take MediCal no later than June 1, 2023. Respondent is to choose one of the therapists and inform Petitioner of his choice no later than June 15th. If Respondent does not make his choice by the deadline then Minor's Counsel is to choose the therapist. The children are to commence therapy with the new therapist as soon as possible after a choice is made and they are to continue therapy at a frequency and duration as recommended by the therapist. Respondent is to ensure the children participate in therapy during his visitation time via video or phone call, as recommended by the children's therapist.
- (7) Parenting Course: Petitioner is to participate in a parenting course or engage the services of a behavioral therapist to ensure healthy boundaries and appropriate discipline.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

May 18, 2023

8:30 a.m./1:30 p.m.

- (8) Co-Parenting Counseling: The court is not recommending co-parenting counseling at this time.
- (9) Out of State Travel: Neither party may travel out of state with the children with the exception that Respondent may travel into Tennessee or Alabama with the children so long as such travel is no further than 30 miles from Respondent's residence.

TENTATIVE RULING #6: THE COURT ORDERS AS FOLLOWS: (1) PARENTING TIME: RESPONDENT SHALL HAVE VISITATION THE THIRD WEEKEND OF EACH MONTH IN CALIFORNIA FROM FRIDAY AFTER SCHOOL OR 3:00 PM IF SCHOOL IS NOT IN SESSION TO SUNDAY AT 6:00 PM. EXCHANGES ARE TO TAKE PLACE AT THE EL DORADO COUNTY SHERIFF'S DEPARTMENT. ON FRIDAYS OF A VISITATION WEEKEND, PETITIONER IS TO PICK THE CHILDREN UP FROM SCHOOL AND DRIVE THEM DIRECTLY TO THE SHERIFF'S DEPARTMENT FOR THE EXCHANGE. IF RESPONDENT IS UNABLE TO MAKE ANY OF HIS VISITS HE IS TO GIVE PETITIONER NOTICE OF THE CANCELLED VISIT NO LESS THAN ONE WEEK PRIOR TO THE DATE THE VISIT WAS TO COMMENCE. (2) SUMMER VISIT: RESPONDENT SHALL HAVE PARENTING TIME IN GEORGIA FROM SATURDAY JULY 8, 2023 THROUGH SUNDAY JULY 23, 2023. PETITIONER SHALL TRANSPORT THE CHILDREN TO AND FROM THE SACRAMENTO AIRPORT FOR TRAVEL TO THEIR VISIT WITH RESPONDENT. RESPONDENT'S REQUEST TO HAVE VISITATION FOR THE ENTIRETY OF ALL FUTURE SUMMERS IS DENIED. (3) HOLIDAY SCHEDULE: THE HOLIDAY SCHEDULE IS ADOPTED AS THE ORDER OF THE COURT AS STATED IN THE JANUARY 12, 2023 CCRC REPORT. (4) PHONE CALLS: RESPONDENT IS TO HAVE PHONE CALLS WITH THE CHILDREN ON TUESDAYS AND THURSDAYS AT 6:30 PM AND SATURDAYS AT 4:30 PM. PETITIONER IS TO HAVE THE SAME SCHEDULE WHEN THE CHILDREN ARE VISITING RESPONDENT DURING THEIR SUMMER VISITATION. NEITHER PARTY IS TO INTERRUPT OR MONITOR THE CHILDREN'S CALLS WITH THE OTHER PARENT. (5) COMMUNICATION: THE PARTIES ARE TO CONTINUE THEIR USE OF TALKINGPARENTS. NEITHER PARENT MAY SPEAK NEGATIVELY OF THE OTHER PARENT OR ENGAGE IN DISCUSSIONS WITH THE CHILDREN INVOLVING THE OTHER PARENT OR THE COURT PROCEEDINGS. (6) COUNSELING: THE PARTIES ARE TO CHOOSE A NEW THERAPIST FOR THE CHILDREN. PETITIONER IS TO PROPOSE THE NAMES OF 2-3 THERAPISTS WHO TAKE MEDICAL NO LATER THAN JUNE 1, 2023. RESPONDENT IS TO CHOOSE ONE OF THE THERAPISTS AND INFORM PETITIONER OF HIS CHOICE NO LATER THAN JUNE 15TH. IF RESPONDENT DOES NOT MAKE HIS CHOICE BY THE DEADLINE, THEN MINOR'S COUNSEL IS TO CHOOSE THE THERAPIST. THE CHILDREN ARE TO COMMENCE THERAPY WITH THE NEW THERAPIST AS SOON AS POSSIBLE AFTER A CHOICE IS MADE AND THEY ARE TO CONTINUE THERAPY AT A FREQUENCY AND DURATION AS RECOMMENDED BY THE THERAPIST. RESPONDENT IS TO ENSURE THE CHILDREN PARTICIPATE IN THERAPY DURING HIS VISITATION TIME VIA VIDEO OR PHONE CALL, AS RECOMMENDED BY THE CHILDREN'S THERAPIST. (7) PARENTING COURSE: PETITIONER IS TO PARTICIPATE IN A PARENTING COURSE OR ENGAGE THE SERVICES OF A BEHAVIORAL THERAPIST TO ENSURE HEALTHY BOUNDARIES AND

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

May 18, 2023

8:30 a.m./1:30 p.m.

APPROPRIATE DISCIPLINE. (8) CO-PARENTING COUNSELING: THE COURT IS NOT RECOMMENDING CO-PARENTING COUNSELING AT THIS TIME. (9) OUT OF STATE TRAVEL: NEITHER PARTY MAY TRAVEL OUT OF STATE WITH THE CHILDREN WITH THE EXCEPTION THAT RESPONDENT MAY TRAVEL INTO TENNESSEE OR ALABAMA WITH THE CHILDREN SO LONG AS SUCH TRAVEL IS NO FURTHER THAN 30 MILES FROM RESPONDENT'S RESIDENCE. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. RESPONDENT IS TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6725 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; *SEE ALSO LEWIS V. SUPERIOR COURT*, 19 CAL.4TH 1232, 1247 (1999). NOTICE TO ALL PARTIES OF A REQUEST FOR ORAL ARGUMENT AND THE GROUNDS UPON WHICH ARGUMENT IS BEING REQUESTED MUST BE MADE BY TELEPHONE OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07.

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
May 18, 2023
8:30 a.m./1:30 p.m.

8. RENEE MARSHALL V. SEAN EDWARDS

22FL1019

On December 9, 2022, the court granted Petitioner's request for a Domestic Violence Restraining Order. Petitioner requested the court grant her attorney's fees as well an award of damages caused by Respondent to Petitioner's vehicle. The court continued the hearing on the request for attorney's fees and damages as Respondent had not filed an Income and Expense Declaration. The court ordered parties to file Supplemental Declarations and Respondent to file an Income and Expense Declaration at least 10 days prior to the hearing.

The matter came before the court for hearing on March 6th. Neither party filed a Supplemental Declaration and Respondent did not file an Income and Expense Declaration as ordered by the court. The court continued the matter to the present hearing date and once again ordered parties to file Supplemental Declarations 10 days prior to the hearing date. The court noted it received an Income and Expense Declaration from Respondent on March 2nd but stated that Respondent could file an updated declaration prior to the hearing if there were any changes.

Petitioner's Supplemental Declaration re Damages and Attorney Fees, Income and Expense Declaration, and Attorney Kristen L. Bruce's Declaration in Support of Respondent's Request for Order Regarding Attorney's Fees were all filed and served on May 3rd.

Petitioner reiterates her request for attorney's fees. Her initial request was for \$5,000 but her fees now amount to \$11,472.50. She states she is unable to afford her own fees as she was forced to quit her job out of fear of Respondent. She estimates Respondent has approximately \$710 in monthly disposable income. She requests monthly payments of \$500 with the entire amount to become immediately due if Respondent misses any payments.

Also, according to Petitioner, there was an altercation between herself and Respondent during which Respondent punched the driver's side dashboard of her mother's 2018 Ford Explorer. Petitioner requests Respondent pay to repair the damages which amount to an estimated \$4,766.11.

Finally, Petitioner asks that Respondent provide her with a description of his current vehicle which would afford her the opportunity to avoid him. She notes he is paying for a vehicle loan in the amount of \$51,988 through Toyota Roseville.

Respondent objects to the request for attorney's fees stating he is already living paycheck to paycheck.

Family Code section 6344(b) allows "[i]n any action in which the petitioner is the prevailing party and cannot afford to pay for the attorney's fees and costs, the court shall, if appropriate based on the parties' respective abilities to pay, order that the respondent pay

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

May 18, 2023

8:30 a.m./1:30 p.m.

petitioner's attorney's fees and costs for commencing and maintaining the proceeding. Whether the respondent shall be ordered to pay attorney's fees and costs for the prevailing petitioner, and what amount shall be paid, shall be determined based upon (1) the respective incomes and needs of the parties, and (2) any factors affecting the parties' respective abilities to pay."

After a review of the aforementioned filings the court finds and orders Respondent to pay Petitioner \$8,500 as and for attorney's fees. Petitioner's requested \$11,472.50 appears to be far in excess of what is reasonable to have been billed on this matter and without billing statements to support the amount requested the court declines to award the entire amount. Instead, Petitioner is awarded \$8,500 as the court finds this amount to be reasonable. This amount is to be paid directly to Petitioner's counsel. Payments may be made in monthly increments of \$141.67 on the 1st of each month until paid in full (approximately 60 months). If any payment is missed or late, the entire amount shall become immediately due and payable with legal interest.

Petitioner's request for payment of damages to the Ford Explorer is granted. Respondent is to pay Petitioner \$4,766.11 in monthly increments of \$132.39 due and payable on the 15th of each month until paid in full (approximately 36 months). If any payment is missed or late the entire amount shall become immediately due.

Regarding Petitioner's request for a description of Respondent's current vehicle, the court finds this request to be outside the scope of the original Request for Order and as such, the court declines to rule on it at this time. Respondent is reminded the Domestic Violence Restraining Order protections remain in full force and effect and that any violation of those orders may constitute a misdemeanor, punishable by up to one year in jail.

TENTATIVE RULING #8: PETITIONER IS AWARDED \$8,500 AS AND FOR ATTORNEY'S FEES. THIS AMOUNT IS TO BE PAID DIRECTLY TO PETITIONER'S COUNSEL. PAYMENTS MAY BE MADE IN MONTHLY INCREMENTS OF \$141.67 ON THE 1ST OF EACH MONTH UNTIL PAID IN FULL (APPROXIMATELY 60 MONTHS). IF ANY PAYMENT IS MISSED OR LATE, THE ENTIRE AMOUNT SHALL BECOME IMMEDIATELY DUE AND PAYABLE WITH LEGAL INTEREST. PETITIONER'S REQUEST FOR PAYMENT OF DAMAGES TO THE FORD EXPLORER IS GRANTED. RESPONDENT IS TO PAY PETITIONER \$4,766.11 IN MONTHLY INCREMENTS OF \$132.39 DUE AND PAYABLE ON THE 15TH OF EACH MONTH UNTIL PAID IN FULL (APPROXIMATELY 36 MONTHS). IF ANY PAYMENT IS MISSED OR LATE THE ENTIRE AMOUNT SHALL BECOME IMMEDIATELY DUE. REGARDING PETITIONER'S REQUEST FOR A DESCRIPTION OF RESPONDENT'S CURRENT VEHICLE, THE COURT FINDS THIS REQUEST TO BE OUTSIDE THE SCOPE OF THE ORIGINAL REQUEST FOR ORDER AND AS SUCH, THE COURT DECLINES TO RULE ON IT AT THIS TIME. RESPONDENT IS REMINDED THE DOMESTIC VIOLENCE RESTRAINING

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

May 18, 2023

8:30 a.m./1:30 p.m.

ORDER PROTECTIONS REMAIN IN FULL FORCE AND EFFECT AND THAT ANY VIOLATION OF THOSE ORDERS MAY CONSTITUTE A MISDEMEANOR, PUNISHABLE BY UP TO ONE YEAR IN JAIL.

PETITIONER IS TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6725 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; *SEE ALSO LEWIS V. SUPERIOR COURT*, 19 CAL.4TH 1232, 1247 (1999). NOTICE TO ALL PARTIES OF A REQUEST FOR ORAL ARGUMENT AND THE GROUNDS UPON WHICH ARGUMENT IS BEING REQUESTED MUST BE MADE BY TELEPHONE OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

May 18, 2023

8:30 a.m./1:30 p.m.

9. SCOTT YODER V. JENNIFER YODER

PFL20180901

Respondent filed a Request for Order (RFO) asking the court to reinstitute the Income Withholding Order which she states was improperly terminated. The RFO was filed on March 7th and served via U.S. mail on March 17th. The parties are ordered to appear on this RFO.

By way of a separate RFO, Petitioner is seeking an order for child support and sanctions pursuant to Family Code section 271. The RFO was filed on April 25th, however there is no Proof of Service indicating this document and all other required documents were served on Respondent. Accordingly, this RFO is dropped from calendar for lack of proper service.

TENTATIVE RULING #9: THE PARTIES ARE ORDERED TO APPEAR ON RESPONDENT'S MARCH 17TH RFO.

PETITIONER'S APRIL 25TH RFO IS DROPPED FROM CALENDAR DUE TO LACK OF PROPER SERVICE. NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6725 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999). NOTICE TO ALL PARTIES OF A REQUEST FOR ORAL ARGUMENT AND THE GROUNDS UPON WHICH ARGUMENT IS BEING REQUESTED MUST BE MADE BY TELEPHONE OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

May 18, 2023

8:30 a.m./1:30 p.m.

10. TIMOTHY ADKINS V. AMEY ADKINS

PFL20170402

Petitioner filed a Request for Order (RFO) on February 10, 2023 requesting the court allocate payment for the previously orders forensic examination of data.

Petitioner filed a second (RFO) on March 23, 2023, requesting modification of child support, spousal support, attorney's fees pursuant to Family Code section 2030 and 271, as well as modification of the tax filing status for claiming the minor.

The court notes both RFOs are post-judgment requests for modification. Petitioner has not filed Proof of Service for either RFO.

The Department of Child Support Services (DCSS) filed a Responsive Declaration on April 12, 2023. Parties were served by mail on April 11, 2023. DCSS requests the support portion of the case be continued to the DCSS calendar to be heard by the child support commission in accordance with Family Code section 4251.

Respondent filed a Responsive Declaration and Income and Expense Declaration on May 1, 2023. Petitioner was served by mail on May 1, 2023.

The court orders parties to appear for the hearing. Petitioner is ordered to file the requisite Proofs of Service for the February 10, 2023 and March 23, 2023 filed RFOs. The court waives the appearance of DCSS for the hearing on May 18, 2023.

TENTATIVE RULING #10: PARTIES ARE ORDERED TO APPEAR. PETITIONER IS ORDERED TO FILE THE REQUISITE PROOFS OF SERVICE FOR THE FEBRUARY 10, 2023 AND MARCH 23, 2023 FILED RFOS. THE COURT WAIVES THE APPEARANCE OF DCSS FOR THE HEARING ON MAY 18, 2023.

LAW & MOTION TENTATIVE RULINGS
DEPARTMENT 5
May 18, 2023
8:30 a.m./1:30 p.m.

11. WENDY JONES V. LUCAS JONES

PFL20210015

Petitioner filed an ex parte application for emergency orders for modification of parenting time on December 8, 2022. Respondent filed a Responsive Declaration on December 8, 2022. On December 9, 2022, the court denied the ex parte application, ordering all prior orders to remain in full force and effect. The court additionally ordered no one shall transport the minors with any measurable amount of alcohol in their system. The court further ordered Respondent to take steps to ensure the minors are not exposed to secondhand smoke while in his home.

Petitioner filed a Request for Order (RFO) on December 9, 2022, making the same requests as set forth in the ex parte application. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on January 12, 2023 and a review hearing on March 2, 2023. Respondent was served by mail on December 9, 2022.

Both parties appeared for CCRC on January 12, 2023, however, they were unable to reach any agreements. A report was filed on February 21, 2023. A copy was mailed to the parties on February 22, 2023.

In preparation for the hearing on the RFO the court issued its tentative ruling adopting the recommendations of the CCRC report. Petitioner called for a hearing and asked that the court order the CCRC counselor to interview the children and issue a new report. The court granted the request and referred the matter back to CCRC. The hearing was continued to the present date.

The parties attended CCRC as scheduled on March 20th and a report was issued on May 8th. In addition to the CCRC report, the court has received Petitioner's Supplemental Declaration which was filed and served on May 5th.

During the CCRC counselor's interviews with the children, the claims of Respondent's unsuitable living conditions were verified. All three children referenced feces and urine on the floor or in the bathtub and spare room. There were references to Respondent's drinking and the paternal grandmother's cigarette smoke. Based on these findings CCRC made recommendations regarding parenting time and the consumption of alcohol by Respondent.

In Petitioner's Supplemental Declaration she requests the court make the following orders: (1) Restrict Respondent's overnight visitation. For the summer break Petitioner asks that Respondent have two 9-hour visits per week every Friday and Sunday from 8:00 am – 5:00 pm or every Saturday and Sunday if Respondent's work schedule does not allow for Friday visits. Once the school year resumes Petitioner requests Respondent have visitation every other Saturday and Sunday for 9 hours each from 8:00 am to 5:00 pm; (2) Set weekday exchanges to occur at the Boys and Girls Club and weekend exchanges at Union Ridge on Mosquito Rd, and

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

May 18, 2023

8:30 a.m./1:30 p.m.

(3) Allow the oldest child to participate in the Firefighter Explorers Program and order Respondent to take the child to attend the program when it occurs on his visitation days. Petitioner argues the children have all suffered adverse health effects due to the living conditions at Respondent's home. She also states that she is the main parent in charge of transportation for visits and Respondent refuses to meet her halfway for the exchanges.

The court has reviewed the filings of the parties as outlined above and finds it to be in the best interest of the children to discontinue overnight visits with Respondent until (1) it has been determined by a professional pest control company that the home is free of any rodent or insect infestation; (2) the floors and carpets have been professionally cleaned by a carpet/floor cleaning company; and (3) Respondent provides Petitioner and the court with documentation regarding the pest control and professional cleaning. The children are to reside primarily with Petitioner. During the summer break, Respondent shall have two nine-hour visits per week. Respondent shall have visitation with the children every Friday and Sunday from 8:00 am to 5:00 pm. If Respondent is unable to do Friday visits then he is to have visitation with the children every Saturday and Sunday from 8:00 am to 5:00 pm. When the school year resumes, Respondent is to have visitation every other Saturday and Sunday from 8:00 am to 5:00pm. Weekday exchanges are to occur at the Boys and Girls Club. Weekend exchanges shall occur at Union Ridge on Mosquito Road. Respondent is ordered to ensure the eldest child attends the Firefighter Explorers Program when the program is scheduled during Respondent's visitation. Respondent may not consume alcoholic beverages, narcotics, or restricted dangerous drugs (except with a valid prescription and taken as prescribed) within 24 hours before or during visitation. All prior orders not in conflict with this order remain in full force and effect.

TENTATIVE RULING #11: THE COURT HAS REVIEWED THE FILINGS OF THE PARTIES AS OUTLINED ABOVE AND FINDS IT TO BE IN THE BEST INTEREST OF THE CHILDREN TO DISCONTINUE OVERNIGHT VISITS WITH RESPONDENT UNTIL (1) IT HAS BEEN DETERMINED BY A PROFESSIONAL PEST CONTROL COMPANY THAT THE HOME IS FREE OF ANY RODENT OR INSECT INFESTATION; (2) THE FLOORS AND CARPETS HAVE BEEN PROFESSIONALLY CLEANED BY A CARPET/FLOOR CLEANING COMPANY; AND (3) RESPONDENT PROVIDES PETITIONER AND THE COURT WITH DOCUMENTATION REGARDING THE PEST CONTROL AND PROFESSIONAL CLEANING. THE CHILDREN ARE TO RESIDE PRIMARILY WITH PETITIONER. DURING THE SUMMER BREAK, RESPONDENT SHALL HAVE TWO NINE-HOUR VISITS PER WEEK. RESPONDENT SHALL HAVE VISITATION WITH THE CHILDREN EVERY FRIDAY AND SUNDAY FROM 8:00 AM TO 5:00 PM. IF RESPONDENT IS UNABLE TO DO FRIDAY VISITS THEN HE IS TO HAVE VISITATION WITH THE CHILDREN EVERY SATURDAY AND SUNDAY FROM 8:00 AM TO 5:00 PM. WHEN THE SCHOOL YEAR RESUMES, RESPONDENT IS TO HAVE VISITATION EVERY OTHER SATURDAY AND SUNDAY FROM 8:00 AM TO 5:00PM. WEEKDAY EXCHANGES ARE TO OCCUR AT THE BOYS AND GIRLS CLUB. WEEKEND EXCHANGES SHALL OCCUR AT UNION RIDGE

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

May 18, 2023

8:30 a.m./1:30 p.m.

ON MOSQUITO ROAD. RESPONDENT IS ORDERED TO ENSURE THE ELDEST CHILD ATTENDS THE FIREFIGHTER EXPLORERS PROGRAM WHEN THE PROGRAM IS SCHEDULED DURING RESPONDENT'S VISITATION. RESPONDENT MAY NOT CONSUME ALCOHOLIC BEVERAGES, NARCOTICS, OR RESTRICTED DANGEROUS DRUGS (EXCEPT WITH A VALID PRESCRIPTION AND TAKEN AS PRESCRIBED) WITHIN 24 HOURS BEFORE OR DURING VISITATION. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. PETITIONER IS TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6725 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; *SEE ALSO* LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999). NOTICE TO ALL PARTIES OF A REQUEST FOR ORAL ARGUMENT AND THE GROUNDS UPON WHICH ARGUMENT IS BEING REQUESTED MUST BE MADE BY TELEPHONE OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07.